

**Executive Summary – Enforcement Matter – Case No. 49789
WESTERN PETROLEUM, LLC dba Western Petroleum 8638
RN102225117
Docket No. 2014-1829-PST-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

Western Petroleum 8638, 604 Highway 277 North, Sonora, Sutton County

Type of Operation:

Unmanned retail fuel dispensing facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 27, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$56,065

Amount Deferred for Expedited Settlement: \$11,213

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$44,852

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 2, 2014

Date(s) of NOE(s): November 13, 2014

Executive Summary – Enforcement Matter – Case No. 49789
WESTERN PETROLEUM, LLC dba Western Petroleum 8638
RN102225117
Docket No. 2014-1829-PST-E

Violation Information

1. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, triennial testing of the cathodic protection system was not conducted [30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d)].
2. Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
3. Failed to report a suspected release to the agency within 24 hours of discovery. Specifically, inventory control records for March and April 2014 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].
4. Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, inventory control records for March and April 2014 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. Conducted the triennial testing of the cathodic protection system on October 7, 2014, with passing results;
- b. Submitted documentation to the TCEQ San Angelo Regional Office demonstrating that a proper release detection method has been implemented for the USTs on October 23, 2014;
- c. Reported the suspected release to the TCEQ on December 8, 2014;
- d. Submitted a Release Determination Report to the TCEQ on January 5, 2015; and
- e. Submitted documentation demonstrating the implementation of a process for reporting and investigating suspected releases to the TCEQ on February 23, 2015.

**Executive Summary – Enforcement Matter – Case No. 49789
WESTERN PETROLEUM, LLC dba Western Petroleum 8638
RN102225117
Docket No. 2014-1829-PST-E**

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1203; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Perry Taylor, President, WESTERN PETROLEUM, LLC, P.O. Box 10146, Knoxville, Tennessee 37939-0146

Joey Cupp, Senior Environmental Manager, WESTERN PETROLEUM, LLC, P.O. Box 10146, Knoxville, Tennessee 37939-0146

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ	DATES	Assigned	17-Nov-2014	Screening	20-Nov-2014	EPA Due	
	PCW	24-Feb-2015					

RESPONDENT/FACILITY INFORMATION

Respondent	WESTERN PETROLEUM, LLC dba Western Petroleum 8638		
Reg. Ent. Ref. No.	RN102225117		
Facility/Site Region	8-San Angelo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	49789	No. of Violations	4
Docket No.	2014-1829-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$63,750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** \$0

Notes: No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** -\$8,250

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$628
Estimated Cost of Compliance \$4,100

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$55,500

OTHER FACTORS AS JUSTICE MAY REQUIRE **1.0%** **Adjustment** \$565

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount \$56,065

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$56,065

DEFERRAL **20.0%** Reduction **Adjustment** -\$11,213

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY \$44,852

Screening Date 20-Nov-2014

Docket No. 2014-1829-PST-E

PCW

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638

Policy Revision 4 (April 2014)

Case ID No. 49789

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102225117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 20-Nov-2014

Docket No. 2014-1829-PST-E

PCW

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638

Policy Revision 4 (April 2014)

Case ID No. 49789

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102225117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.49(c)(4)(C) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, triennial testing of the cathodic protection system was not conducted.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

609

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

One single event is recommended for the period preceding the October 2, 2014 investigation.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent came into compliance on October 7, 2014, prior to the Notice of Enforcement ("NOE") dated November 13, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$565

Violation Final Penalty Total \$5,682

This violation Final Assessed Penalty (adjusted for limits) \$5,682

Economic Benefit Worksheet

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638
 Case ID No. 49789
 Reg. Ent. Reference No. RN102225117
 Media Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	31-Jan-2013	7-Oct-2014	2.60	\$65	\$500	\$565
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for conducting the triennial testing of the cathodic protection system. Date Required is the date of ownership change. Final Date is the date of compliance.

Approx. Cost of Compliance

\$500

TOTAL

\$565

Screening Date 20-Nov-2014

Docket No. 2014-1829-PST-E

PCW

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638

Policy Revision 4 (April 2014)

Case ID No. 49789

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102225117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

21 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended based on documentation of the violation from the October 2, 2014 investigation to the October 23, 2014 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on October 23, 2014, prior to the NOE dated November 13, 2014.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$5,682

This violation Final Assessed Penalty (adjusted for limits) \$5,682

Economic Benefit Worksheet

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638
Case ID No. 49789
Reg. Ent. Reference No. RN102225117
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	2-Oct-2014	23-Oct-2014	0.06	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$4

Screening Date 20-Nov-2014

Docket No. 2014-1829-PST-E

PCW

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638

Policy Revision 4 (April 2014)

Case ID No. 49789

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102225117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.72

Violation Description

Failed to report a suspected release to the agency within 24 hours of discovery. Specifically, inventory control records for March and April 2014 indicated a suspected release that was not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent came into compliance on February 23, 2015, after the initial settlement offer dated January 9, 2015.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$3,788

This violation Final Assessed Penalty (adjusted for limits) \$3,788

Economic Benefit Worksheet

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638
 Case ID No. 49789
 Reg. Ent. Reference No. RN102225117
 Media Petroleum Storage Tank
 Violation No. 3

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	2-May-2014	8-Dec-2014	0.60	\$0	\$4	\$4
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	2-Oct-2014	23-Feb-2015	0.39	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to report a suspected release (\$100). Date Required is the date the report was due. Final Date is the date the report was submitted. Estimated cost to establish and implement a process for reporting and investigating suspected releases (\$500). Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$600

TOTAL

\$14

Screening Date 20-Nov-2014

Docket No. 2014-1829-PST-E

PCW

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638

Policy Revision 4 (April 2014)

Case ID No. 49789

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102225117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 334.74

Violation Description

Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, inventory control records for March and April 2014 indicated a suspected release that was not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 6

173 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$45,000

Six monthly events are recommended based on documentation of the violation from the May 31, 2014 suspected release investigation due date to the November 20, 2014 screening date.

Good Faith Efforts to Comply

10.0%

Reduction \$4,500

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on January 5, 2015, after the NOE dated November 13, 2014.

Violation Subtotal \$40,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$45

Violation Final Penalty Total \$40,912

This violation Final Assessed Penalty (adjusted for limits) \$40,912

Economic Benefit Worksheet

Respondent WESTERN PETROLEUM, LLC dba Western Petroleum 8638
Case ID No. 49789
Reg. Ent. Reference No. RN102225117
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	31-May-2014	5-Jan-2015	0.60	\$45	n/a	\$45

Notes for DELAYED costs

Estimated cost to conduct an investigation of the suspected release and implement appropriate corrective measures. Date Required is the date the release investigation was due. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$45

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604019786, RN102225117, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604019786, WESTERN PETROLEUM, LLC **Classification:** SATISFACTORY **Rating:** 1.81

Regulated Entity: RN102225117, Western Petroleum 8638 **Classification:** HIGH **Rating:** 0.00

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 604 HIGHWAY 277 N SONORA, TX 76950-1807, SUTTON COUNTY

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 7777

EMERGENCY RESPONSE ID NUMBER R08102225117

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: November 20, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 20, 2009 to November 20, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Keith Frank

Phone: (512) 239-1203

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If **YES** for #2, who is the current owner/operator? Western Petroleum, LLC OWNER OPERATOR since 1/31/2013
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? United Fuel & Energy Corporation, OWNER OPERATOR, 7/10/1986 to 1/30/2013
- 5) If **YES**, when did the change(s) in owner or operator occur? 1/31/2013

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WESTERN PETROLEUM, LLC
DBA WESTERN PETROLEUM
8638
RN102225117

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2014-1829-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding WESTERN PETROLEUM, LLC dba Western Petroleum 8638 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an unmanned retail fuel dispensing facility at 604 Highway 277 North in Sonora, Sutton County, Texas (the "Facility").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 18, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifty-Six Thousand Sixty-Five Dollars (\$56,065) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Forty-Four Thousand Eight Hundred Fifty-Two Dollars (\$44,852) of the administrative penalty and Eleven Thousand Two Hundred Thirteen Dollars (\$11,213) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Conducted the triennial testing of the cathodic protection system on October 7, 2014, with passing results;
 - b. Submitted documentation to the TCEQ San Angelo Regional Office demonstrating that a proper release detection method has been implemented for the USTs on October 23, 2014;
 - c. Reported the suspected release to the TCEQ on December 8, 2014;
 - d. Submitted a Release Determination Report to the TCEQ on January 5, 2015; and
 - e. Submitted documentation demonstrating the implementation of a process for reporting and investigating suspected releases to the TCEQ on February 23, 2015.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on October 2, 2014. Specifically, triennial testing of the cathodic protection system was not conducted.
2. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on October 2, 2014.
3. Failed to report a suspected release to the agency within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation conducted on October 2, 2014. Specifically, inventory control records for March and April 2014 indicated a suspected release that was not reported.
4. Failed to investigate a suspected release of regulated substance within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on October 2, 2014. Specifically, inventory control records for March and April 2014 indicated a suspected release that was not investigated.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: WESTERN PETROLEUM, LLC dba Western Petroleum 8638, Docket No. 2014-1829-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

5/29/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

2-26-15
Date

Joey Cupp
Name (Printed or typed)

Sr. Environmental Manager
Title

Authorized Representative of
WESTERN PETROLEUM, LLC dba Western Petroleum 8638

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.